

## Message Text

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ACTION EB-07

INFO OCT-01 ARA-06 EUR-12 EA-06 NEA-09 IO-10 ISO-00 AGR-05

CEA-01 CIAE-00 COME-00 DODE-00 FRB-03 H-01 INR-07

INT-05 L-02 LAB-04 NSAE-00 NSC-05 PA-01 AID-05

CIEP-01 SS-15 STR-01 TAR-01 TRSE-00 USIA-06 PRS-01

SP-02 FEAE-00 OMB-01 OIC-02 AF-06 SAM-01 /127 W

----- 096400

R 101652Z FEB 75

FM USMISSION GENEVA

TO SECSTATE WASHDC 585

INFO AMEMBASSY BOGOTA

AMEMBASSY BONN

AMEMBASSY BRASILIA

AMEMBASSY BRUSSELS

USMISSION EC BRUSSELS

AMEMBASSY CANBERRA

AMEMBASSY CAIRO

AMCONSUL HONG KONG

AMEMBASSY ISLAMABAD

AMEMBASSY LONDON

AMEMBASSY MANILA

AMEMBASSY MEXICO CITY

AMEMBASSY NEW DELHI

AMEMBASSY PARIS

AMEMBASSY ROME

AMEMBASSY SEOUL

AMEMBASSY TOKYO

AMEMBASSY VIENNA

AMEMBASSY OTTAWA

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E.O. 11652: NA

TAGS: GATT

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SUBJECT: GATT - TEXTILES SURVEILLANCE BODY - FIRST MEETING FEB 5-7

REF: GENEVA 713

1. FIRST 1975 MEETING TSB CONVENED MORNING FEB 5, HELD MORNING AND AFTERNOON SESSION FEB 5 AND 6 AND, AFTER LENGTHY MORNING SESSION WAS ADJOURNED AFTERNOON FEB 7. NEXT MEETING SCHEDULED FEB 17-19.

2. FEB 5 SESSIONS WERE DEVOTED TO CONSIDERATION ITEMS CARRIED OVER FROM LAST DECEMBER SESSION. BODY: A) REVIEWED ACCEPTED AND AGREED CIRCULATE TO TC LIST "CORRECTIONS" SUBMITTED BY EC WITH RESPECT ITS ORIGINAL ARTICLE 2 NOTIFICATION (COM.TEX/5B/17); B) AGREED TO DEFER AGAIN UNTIL NEXT MEETING CONSIDERATION OF ARTICLE 3 NOTIFICATION BY SWEDEN -- IT IS EXPECTED THAT SWEDEN WILL SEND DELEGATION TO GENEVA FOR FEB 17 MEETING IN ORDER ANSWER TSB QUESTIONS REGARDING ARTICLE 3 ACTIONS NOTIFIED; C) GAVE PRELIMINARY CONSIDERATION TO LENGTHY MEMORANDUM SUBMITTED BY SPAIN JUSTIFYING CONTINUATION ITS TEXTILE IMPORT RESTRAINT FOR BALANCE OF PAYMENTS REASONS--VIEW FACT GATT BOP COMMITTEE IN 1973 HAS FOUND SPAIN NO LONGER JUSTIFIED IN MAINTAINING RESTRICTIONS FOR BOP REASONS, TSB HAD REQUESTED DETAILED INFORMATION FROM SPAIN FOLLOWING RECEIPT SPANISH NOTIFICATION UNDER ARTICLE 2 -- MEMORANDUM WAS FIRST STEP IN THIS EXERCISES -- SINCE MEMORANDUM NOT FULLY INFORMATIVE, NOW APPEARS LIKELY THAT SPAIN WILL BE ASKED SEND DELEGATION TO APPEAR BEFORE TSB ALTHOUGH THIS DECISION WILL NOT BE MADE UNTIL FEB 17 MEETING; D) IN ABSENCE INFORMATION REQUESTED OF AUSTRIA, DEFERRED CONSIDERATION AUSTRIA-KOREA BILATERAL NOTIFIED UNDER ARTICLE 4 UNTIL NEXT MEETING; AND E) REVIEWED AND AGREED CIRCULATE TO TC AUSTRIA-PAKISTAN BILATERAL NOTIFIED UNDER ARTICLE 4.

3. BOTH SESSIONS FEB 6 WERE DEVOTED TO EXTENSIVE DISCUSSION AND DEBATE OVER RELATIONSHIP BETWEEN THE GENERAL AGREEMENT (GATT) AND THE MFA. THIS ISSUE WAS RAISED BY: A) AUSTRALIA'S ACTION ESTABLISHING A TARIFF QUOTA FOR CERTAIN TEXTILES AND ; B) CANADA'S ACTION IN EXTENDING A GLOBAL QUOTA ON SHIRT IMPORTS (FIRST ESTABLISHED IN 1971) FOR ANOTHER YEAR UNDER PROVISIONS OF GATT ARTICLE XIX.

4. AUSTRALIA'S TEXTILE TARIFF QUOTA ACTION WHICH HAD BEEN SUBJECT LIMITED OFFICIAL USE

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CRITICISM IN TC DEP MEETING, WAS EXTENDED TO ADDITIONAL ITEMS (TEXTILE AND OTHERWISE) IN JAN. AUSTRALIA HAS MAINTAINED THAT: A) ACTION CANNOT BE CONSIDERED BY TC OR TSB SINCE MFA SPECIFICALLY EXCLUDES "TARIFF ACTIONS" FROM PURVIEW AND, B) ACTION DOES NOT CONSTITUTE VIOLATION GATT RULES SINCE AUSTRALIA'S TEXTILE TARIFFS WERE NOT BOUND. UNDERSTANDABLY, AUSTRALIA'S POSITION HAS PRODUCED STATE OF ACUTE FRUSTRATION AMONG TEXTILE EXPORTING COUNTRIES AFFECTED

AND, AS ONE TSB REP PUT IT, WAY MUST BE FOUND "HALE THE KANGAROOS INTO COURT" SOMEWHERE. IN US REPS VIEW, ALL PARTICIPANTS IN MFA ARE "AFFECTED" IN SENSE THAT AUSTRALIA'S ACTION CONSTITUTES BASIC CHALLENGE TO MFA AND, IF SUCCESSFUL, WOULD ENCOURAGE PROTECTIONISTS EVERYWHERE TO SEEK SIMILAR RELIEF WHICH, IN TURN COULD LEAD TO AN EARLY UNRAVELING OF THE MFA.

5. IN FEB 3 GATT COUNCIL MEETING, UNDER "OTHER BUSINESS", JAPAN RE RAISED QUESTION AUSTRALIA TEXTILE TQ ACTION STATING THAT ACTION WAS SIMILAR TO QUANTITATIVE RESTRAINT, FRUSTRATED PURPOSE OF MFA AND WAS VIOLATION OF ARTICLE 9 OF MFA. URGED EXAMINATION OF MATTER IN BOTH GATT COUNCIL AND TSB. US COUNCIL REP INCORPORATED REFERENCE TO TEXTILES IN STATEMENT ON AUSTRALIAN ACTION ON AUTOMOBILES (REFTL) WHERE HE POINTED OUT UNFORTUNATE CONSEQUENCES OF NEW PROTECTIVE ACTIONS, PARTICULARLY ON EVEN OF MTN. ALSO SAID AUSTRALIAN TEXTILE ACTION, INsofar AS IT WAS CONSISTENT WITH MFA ARTICLE 9, WOULD FRUSTRATE ACHIEVEMENT MFA OBJECTIVES. CONCLUDED BY OBSERVING THAT IN ANY TQ SYSTEM WHERE SECOND TIER TARIFF IS PROHIBITIVE THERE IS A DEFAC TO QUANTITATIVE RESTRAINT OF TRADE AND THAT WHILE US (AT THAT POINT) HAD NO FIXED VIEW WHERE MATTER SHOULD BE EXAMINED, U.S. FELT IT SHOULD BE EXAMINED SOMEWHERE. UK (FOR HONG KONG) REP URGED PROMPT CONSIDERATION IN TSB. CANADA REP WASN'T SURE WHERE MATTER SHOULD BE DISCUSSED (THEY WERE ALREADY WORRYING ABOUT POSSIBLE REACTION TO THEIR ARTICLE XIX SHIRT ACTION -- PARA 3 ABOVE). AUSTRALIAN REP ASSERTED; A) THAT ACTION WAS NOT QUANTITATIVE RESTRICTION SINCE SECOND TIER TARIFFS WERE NOT RPT NOT PROHIBITIVE--THEREFORE ACTION BEYOND PURVIEW OF TSB; B) WAS PREPARED CONSULT WITH ANY ONE ON SUBJECT OF GATT OBLIGATIONS; C) THERE WAS NO LEGAL BAR IN GATT TO RAISING UNBOUND TARIFF, ON CONTRARY, WAS A RIGHT; D) SINCE SOME MFA PARTICIPANTS WERE NOT GATT MEMBERS THEY COULD NOT OBTAIN GATT RIGHTS SOLELY BY BELONGING TO MFA--ANOTHER ARGUMENT AGAINST MFA FORUM; AND, E) WHILE NOT EXCLUDING LIMITED OFFICIAL USE

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TREATMENT OF ISSUE IN "SOME" GATT FORUM, STILL WOULD CONSIDER ITS ACTION CONSISTENT WITH THE GATT. AFTER THIS INTERVENTION, COUNCIL AGREED REVERT TO MATTER AT SUBSEQUENT MEETING.

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ACTION EB-07

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SP-02 FEAE-00 OMB-01 OIC-02 AF-06 SAM-01 /127 W

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R 101652Z FEB 75

FM USMISSION GENEVA

TO SECSTATE WASHDC 586

INFO AMEMBASSY BOGOTA

AMEMBASSY BONN

AMEMBASSY BRASILIA

AMEMBASSY BRUSSELS

USMISSION EC BRUSSELS

AMEMBASSY CANBERRA

AMEMBASSY CAIRO

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6. AGAINST BACKGROUND COUNCIL DISCUSSION AND EXTENSIVE PRIOR  
BILATERAL DISCUSSIONS AMONG TSB MEMBERS REGARDING BOTH  
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AUSTRALIAN ACTION AND CANADA'S ARTICLE XIX ACTION AND, WITHOUT  
SPECIFIC REFERENCE TO EITHER CASE, TSB UNDERTOOK ALL-DAY (FEB 6)  
DISCUSSION OF RELATIONSHIP BETWEEN RIGHTS AND OBLIGATIONS INHERENT IN  
GATT AND MFA INCLUDING HEARING DIVERSE OPINIONS OF GATT LEGAL  
EXPERTS. ONLY POINT ON WHICH THERE APPEARED BE CONSENSUS WAS VIEW  
THAT MFA WAS NO BAR TO EXERCISE OF GATT RIGHTS. THIS VIEW GETS

CANADA OFF THE HOOK LEGALLY IF NOT ETHICALLY. THE ARTICLE XIX ACTION, UNTIL CHALLENGED AND A FINDING TO CONTRARY, MUST BE CONSIDERED AS "JUSTIFIED UNDER THE GATT" AND THEREFORE BEYOND THE PROVISIONS OF MFA ARTICLE 3. FROM CONVERSATIONS WITH CANADIAN MISSION HERE AND ALSO OF CANADIAN TEXTILE AND CLOTHING BOARD AND THAT GOC MOTIVATION WAS PRIMARILY EXPEDIENCY. ARTICLE 3 ACTIONS AGAINST NUMBER EXPORTING COUNTRIES INDIVIDUALLY UNDER MFA ARTICLE 3 WOULD HAVE BEEN BOTH DIFFICULT AND TIME CONSUMING. SIMPLE DECLARATION OF RENEWAL OLD ARTICLE XIX GLOBAL QUOTA ACTION (WITH LITTLE OR NO RISK CHALLENGE) WAS ATTRACTIVE WAY OUT. CANADIANS NOW WELL AWARE TSB VIEWING ACTION AS QUESTIONABLY ETHICALLY, MAY REFRAIN IN FUTURE.

7. AGAIN WITHOUT OVERT REFERENCE AUSTRALIAN TQ ACTION, TSB CONCLUDED THAT ANY TQ ACTION WHERE SECOND TIER TARIFFS WERE PROHIBITED CONSTITUTED A DE FACTO QUANTITATIVE RESTRAINT AND THEREFORE WITHIN THE PURVIEW OF TSB EXAMINATION AND RECOMMENDATIONS. DISCUSSION AS TO HOW TO PROCEED IN MATTER WAS INCONCLUSIVE AND IT AGREED TO CONTINUE DISCUSSION PROCEDURE AT NEXT MEETING. GENERALLY, TSB FELT THAT PROCEDURES PROVIDED IN GATT WERE SO TIME CONSUMING AS TO BE WITHOUT PRACTICAL EFFECT. ALSO, FEW MEMBERS HAD ILUSIONS AS TO IMMEDIATE EFFICACY "MORAL SUASION" WITH AUSTRALIANS. WITH AUSTRALIA REFUSING DISCUSS MATTER WITH TSB, IDEA WAS FLOATED (CANADA AND JAPAN) HAVE GATT COUNCIL DESIGNATE TSB MEMBERS AS "WORKING PARTY OF EXPERTS" TO CONSIDER PROGRAM UNDER GATT AEGIS. EVEN BOEFORE GATT LAWYERS HAD OPPORTUNITY POINT OUT LEGAL DIFFICULTIES THIS APPROACH, AUSTRALIAN REACTION PROPOSAL MADE INFORMALLY WAS COMPLETELY NEGATIVE.

8. US REP BELIEVES QUICKEST AND PERHAPS ONLY WAS GET MULTILATERAL EXAMINATION AUSTRALIA'A ACTION STARTED IS TO HAVE AFFECTED EXPORTING COUNTRY INVOKE ARTICLE 9 OF MFA. TSB COULD THEN INVITE AUSTRALIA PARTICIPATE IN CONSULTATIONS TO DETERMINE WHETHE TQ SYSTEM CONSITUTES A "NEW QUANTIATIVE LIMITED OFFICIAL USE

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RESTRAINT" (WHICH IS SURELY DOES IF AVAILABLE INFO IS CORRECT. IF DETERMINATION IS AFFIRMATIVE, TSB THEN ON SOUND LEGAL GROUNDS PROCEED WITH OR WITHOUT AUSTRALIAN PARTICIPATION TO POINT MAKING RECOMMENDATIONS. IF, AS PRESENT INDICATIONS ARE, AUSTRALIA REFUSES PARTICIPATE, AND TSB RECOMMENDATIONS STRONGLY AGAINST AUSTRALIAN ACTIONS,PROBABILITY IS AUSTRALIA WOULD WITHDRAW FROM MFA. ON BALANCE, THAT UNHAPPY RESULT WOULD BE BETTER FOR FUTURE OF MFA, THAN RESULTS OF FAILURE MEET BASIC CHALLENGE TO MFA. TSB REP WOULD APPRECIATE DEPARTMENT'S VIEWS ON FOREGOING TACTIC. IF IT APPEARS HAVE MERIT, US REP BELIEVES THERE ADEQUATE SUPPORT IN TSB FOR INITIATION.

9. LAST SESSION FEB 7 DEVOTED QUESTIONING SWISS DELEGATION ON

OPERATION OF SWISS "PRICE SURVEILLANCE SYSTEM" APPLIED TO IMPORTS  
FROM SEVEN BLOC COUNTRIES. CONSIDERATION OF SWISS REPS STATEMENTS  
AND REPLIES TO TSB QUESTIONS WILL BE RESUMED AT FEB 17 MEETING.

10. EC REP MEYNELL ANNOUNCED HIS RETIREMENT FROM TSB EFFECTIVE  
AS OF FEB 7. KLARIC OF EC COMMISSION OFFICER HERE (HE HAS ACTED  
AS MEYNELL'S ALTERNATIVE FOR SOME MONTHS) WILL BE ACTING REP "FOR  
A SHORT TIME" PENDING APPOINTMENT OF A PERMANENT REP.  
MEYNELL PRIVATELY TOLD US REP THAT EC PERM REP SHOULD BE  
NOMINATED "WITHIN A MATTER OF DAYS" BUT DECLINED TO NOMINATE  
THE PERSON.DALE

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## Message Attributes

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**Disposition Approved on Date:**  
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**TAGS:** OCON, ETRD, GATT  
**To:** STATE  
**Type:** TE  
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